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2400 FINGERPRINTING

2401 Overview

This chapter describes the processes used to fingerprint DES/DDD staff and service providers. It also defines the role of the Criminal Records Analyst in Central Office, responsibilities of licensing and home and community based services (HCBS) certification workers and service providers.

2402 Purpose

This policy is to assure that employees of the DES/DDD and its providers who provide direct services to persons with developmental disabilities have been fingerprinted for a criminal records check.

DES/DDD staff to be fingerprinted include, but are not limited to, the following categories pursuant to A.R.S. § 41-770 and DES 1-23-13

- a. Habilitation Technician I, II and III;
- b. Habilitation Supervisor I, II;
- c. Human Service Specialist I, II, III;
- d. Teacher Institutional Programs;
- e. Human Services Worker I, II;
- f. Human Services Unit Supervisor;
- g. Cook I, II, III;
- h. Food Services Supervisor I, II;
- i. Custodial Crew Worker I, II;
- j. Custodial Crew Supervisor I, II;
- k. Driver

Contracted, licensed and/or HCBS certified service providers and their staff to be fingerprinted at the time of initial application or initial employment and every three (3) years thereafter include, but are not limited to, the following categories:

- a. Child Developmental Foster Home licensees and anyone age 18 years and above who resides in the home pursuant to A.R.S. § 41-1750, § 46-141, § 36-594.3, A.A.C. R2-5-501 and R6-6-1001;
- b. Adult Developmental Home licensees and anyone age 18 years or above who resides in the home pursuant to A.R.S. § 41-1750, § 36-596.3, A.A.C. R2-5-501 and R6-6-1101;
- c. Community Residential Setting Administrators, direct care staff, direct care supervisors and any employee of the community residential setting who has fiduciary responsibilities for the setting or for client funds pursuant to A.R.S. § 41-1705, § 36-594.3, A.A.C. R2-5-501, R6-6-703, R6-6-708 and R6-6-711;
- d. Individuals applying for HCBS certification including agency administrators, individuals employed by HCBS certified providers including direct care staff, direct cares staff supervisors, all individuals age 18 and above who reside in the HCBS applicant or certified providers home/facility pursuant to A.R.S. § 36-594.3, A.A.C. R6-6-1506 and R6-6-1514.

2403 Procedures for Fingerprinting

The following procedures are to be followed by DES/DDD staff, adult and child developmental home providers and community residential setting providers in obtaining fingerprint clearance:

2403.1 DES/DDD Staff

Prior to being fingerprinted, the employee shall complete the following forms:

- a. DD-258 Employee/Applicant Declaration (Appendix 2400.A);

- b. J-709 Request for Licensing/Employment Information (Appendix 2400.B); and
- c. FD-258 Fingerprint Card (Appendix 2400.C).

DES/DDD staff must submit the DD-258 Employee/Applicant Declaration (Appendix 2400.A) to their supervisor. The supervisor shall review the DD-258. If any box is checked "yes" in Section 2 of the form, the supervisor shall:

- a. discuss verbally with the staff; and
- b. discuss by telephone with the DES/DDD Criminal Records Analyst in Central Office.

The employee will take the J-709 and the FD-258 and have fingerprints taken at either a DES office, an Office of Special Investigations (OSI) in Phoenix, Flagstaff and Tucson, a local law enforcement agency or a contracted service provider trained to "roll" fingerprints. The supervisor of the employee or designee shall maintain documentation that fingerprints have been taken. Designated District Personnel staff will forward the J-709 Request for Licensing/Employment Information (Appendix 2400.B) and the FD-258 Fingerprint Card (Appendix 2400.C) for all fingerprints taken at the DES office to the OSI for processing.

2403.2 Child and Adult Developmental Home Providers

At the time of application for a license and every three (3) years thereafter, child and adult developmental home providers shall complete the forms specified in Section 2403.1. Additionally, all members of the household over the age of eighteen (18) shall complete the same forms. The licensing worker shall review the form DD-258 (Appendix 2400.A). If any box is checked "yes" in Section 2, the licensing worker shall:

- a. discuss verbally with the applicant/licensee; and
- b. discuss by telephone with the DES/DDD Criminal Records Analyst in Central Office.

The licensing worker shall retain the DD-258 (Appendix 2400-A) and shall instruct the applicant/licensee and other adults living in the

home where to be fingerprinted. The applicant/licensee and other adults living in the home must obtain documentation of being fingerprinted and provide it to the licensing worker for retention in the applicant's/licensee's file. If the fingerprints are not taken at OSI, the licensing worker will forward the J-709 Request for Licensing/Employment Information (Appendix 2400.B) and the FD-258 Fingerprint Card (Appendix 2400.C) to the OSI for processing.

2403.3 Community Residential Providers

Initial applicants for a license to operate a community residential setting should submit the application to the Group Home Licensing and Monitoring Manager at least thirty (30) days prior to the anticipated move-in date and must include documentation of fingerprinting for the purpose of a criminal record check. The forms noted in Section 2403.1 of this manual must be completed. Documentation for the licensee, any direct care staff, the immediate supervisor of direct care staff and any employee of the community residential setting who has fiduciary responsibilities for the setting or for client funds shall be submitted. The licensee must also insure new staff are fingerprinted and the prints submitted for a criminal record check. The applicant must maintain documentation that all relevant individuals have been fingerprinted initially and every three (3) years thereafter. The applicant/licensee or designee shall review the DD-258 form for all relevant individuals. If any box is checked "yes" in section 2, the applicant/licensee or designee shall:

- a. discuss verbally with the individual; and
- b. discuss by telephone with the DES/DDD Criminal Records Analyst in Central Office.

2403.4 Home and Community Based Services (HCBS) Providers

At the time of application or initial employment for an HCBS certified setting and every three (3) years thereafter, the HCBS applicant/service provider and employees shall complete the forms specified in Section 2403.1 of this Manual. Additionally, all individuals age 18 and above who resides in the HCBS applicant or certified provider's home/facility shall complete the same forms. The HCBS Certification Worker or designated agency service provider shall review the DD-258. If any box is checked "yes", the HCBS Certification Worker or designated agency service provider staff shall:

- a. discuss verbally with the individual; and
- b. discuss by telephone with the DES/DDD Criminal Records Analyst in Central Office.

The HCBS Certification Worker or designated agency service provider staff shall retain the DD-258 (Appendix 2400.A) and shall instruct the applicant and other adults living in the home, where to be fingerprinted. The applicant/service provider and other adults living in the home must obtain documentation of being fingerprinted and provide it to the HCBS Certification Worker or designated agency service provider staff for retention in the individual's file. If the fingerprints are not taken at OSI, the HCBS Certification Worker or designated agency service provider staff will forward the J-709 Request for Licensing/Employment Information (Appendix 2400.B) and the FD-258 Fingerprint Card (Appendix 2400.C) to the OSI for processing.

2404 Fees

The OSI charges a fee to process the fingerprints for a criminal records check. This fee is paid by DES/DDD for all state employees and adult and child developmental home providers and adult household members in developmental homes. All other service providers and adult household members are responsible for the OSI fees. If the fingerprints are taken at a local law enforcement agency, there may be a fee which will not be reimbursed. There is no charge for the required reprinting every three (3) years.

2405 Criminal Records Check Results

The OSI forwards each completed fingerprint card to the Department of Public Safety (DPS) for an "Arizona Only" check. Upon completion of this check, the card is forwarded to the Federal Bureau of Investigations (FBI) for a national check. Results are returned to the OSI and are then forwarded to the DES/DDD Criminal Records Analyst.

Upon receipt of any criminal record information meeting the dissemination criteria, the Criminal Records Analyst mails a "Not Cleared" letter to the individual, agency and DES/DDD representative. This letter is sent certified, return receipt requested. The agency and/or DES/DDD representative has ten (10) working days to notify the Criminal Records Analyst of the action to be taken regarding the employee or applicant.

If an individual's criminal record check indicates arrest information, but does not include any information regarding the disposition of the incident, the Criminal Records Analyst mails a "Pending" letter to the individual (certified, return receipt requested). The individual has twenty (20) working days to provide information regarding the outcome of the case. If the individual fails to contact the Criminal Records Analyst, a "Not Cleared" letter is sent to the individual, agency and/or DES/DDD Representative.

For individuals who have no criminal activity, the Criminal Records Analyst mails a "Cleared" letter to the agency and/or DES/DDD representative. For those individuals who have received a "Pending" letter or a "Not Cleared" letter, but are able to provide satisfactory information regarding extenuating circumstances, a "Reversal" letter will be mailed to the agency and/or DES/DDD representative.

If an agency and/or DES/DDD representative does not receive information regarding the results of the criminal records check within six (6) months, they must request, in writing, a trace through the Criminal Records Analyst. Documentation of the request must be maintained in the individual's file.

2406 Knowledge of Criminal Activity

If an agency, DES/DDD supervisor, licensee and/or direct service provider becomes aware of an arrest, indictment or conviction of an employee or any provider who provides direct services to persons with developmental disabilities or any household member of the provider, the Criminal Records Analyst must be notified immediately. Crimes to be reported include:

- a. a sex offense;
- b. a drug related offense;
- c. a theft related offense;
- d. a violence related offense;
- e. child abuse;
- f. child neglect;
- g. contributing to the delinquency of a minor; or
- h. abuse or neglect of a vulnerable adult.

Additionally, arrests, commitments, convictions or indictments of the following offenses must be reported to DES/DDD Criminal Records Analyst and the employee, licensee, service provider and/or household member must be immediately removed from direct contact with persons with developmental disabilities:

- a. sexual abuse of a child or vulnerable adult;
- b. incest;
- c. first or second degree murder;
- d. kidnapping;
- e. arson;
- f. sexual assault;
- g. sexual exploitation of a child or vulnerable adult;
- h. commercial sexual exploitation of a child or vulnerable adult;
- i. felony offenses within the past ten (10) years involving the manufacture or distribution of marijuana or dangerous or narcotic drugs;
- j. robbery;
- k. child prostitution;
- l. child abuse or abuse of a vulnerable adult;
- m. sexual conduct with a child;
- n. molestation of a child or vulnerable adult;
- o. voluntary manslaughter; or
- p. aggravated assault.

2407 Frequency of Criminal Record Checks

All DES/DDD staff noted in Section 2402, individuals, agencies and their staff providing services in community residential settings and/or HCBS settings as well as all individuals age 18 and above who reside in one of the settings noted above, must have a criminal records check at the time

of initial application and every three (3) years thereafter. The procedures noted in Section 2403 of this Manual must be followed. Re-checks are not forwarded to the FBI; DPS does an "Arizona Only" check and forwards the results to the Criminal Records Analyst as noted in Section 2405 of this Manual.